

**Appl. No.** : **10/747,812**  
**Filed** : **December 29, 2003**

### **REMARKS**

Applicants filed an Amendment After Final to place the application in better form for appeal. In response, the Examiner issued an Advisory Action before the filing of the Appeal Brief and noted that the proposed amendments would require further search and/or consideration. Therefore, Applicants are herewith filing an Amendment with a Request for Continued Examination. Applicants are also presenting new Claims 31-36 herewith. Applicants respectfully request that the Examiner consider the amendments and new claims in light of the following comments:

#### **Rejection of Claims 1, 6-7, 10-13, 16, 18, 19, 22 and 26-28 Under 35 U.S.C. § 103 (a)**

In paragraph 2 of the Office action, the Examiner rejected Claims 1, 6-7, 10-13, 16, 18, 19, 22 and 26-28 under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,298,638 to Bettel ("Bettel") in view of U.S. Patent No. 4,815,256 to Brown et al. ("Brown"). Applicants have now amended Claims 1 & 22.

Applicants have amended Claim 1 to recite "placing the filled pouch in a rigid container prior to being released from the neck portion by the positive transfer system; and releasing the neck portion of the filled pouch from the positive transfer system." Applicants have also amended Claim 1 to recite the step of "producing filled, flexible pouches at a rate of 50,000 to 70,000 pouches per hour," as well as the limitation that the flexible pouch has "an average sidewall thickness of between about 0.003 to about 0.010 inches (about 0.0076 to about 0.025 cm)."

As recited in paragraph [0046] in the present application, the thickness of preferred pouches is thinner than a standard container or bottle, thereby allowing for a shorter cooling period after blow molding and increased production rates as compared to standard containers. Applicants have unexpectedly discovered that flexible pouches may be produced at rates between 50,000 to 70,000 pouches per hour when such flexible pouches have an average sidewall thickness between about 0.003 to about 0.010 inches. Such recited production rates and average wall thicknesses of flexible pouches represents a nonobvious step over the combination of Bettel and Brown, as Bettel and Brown fail to teach or suggest such limitations. Thus, Applicants respectfully request that the Examiner withdraw this rejection and pass Claim 1 to allowance.

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Applicants have also amended Claim 22 to recite “placing the pouch in a rigid container prior to releasing the neck portion; and releasing the neck portion from the handling system.” Moreover, Applicants have amended Claim 22 to recite that the flexible pouch has an average sidewall thickness between about 0.003 to about 0.010 inches (about 0.0076 to about 0.025 cm). As neither Bettel nor Brown describes these limitations, Claim 22 is patentable over the cited references.

Accordingly, Applicants respectfully submit that Claims 1 and 22 are allowable over the combination of Bettel and Brown. Claims 2-3, 6-9, 23-24, 26-30 depend from Claims 1 and 22, and further define the inventions defined in Claims 1 and 22. Thus, Claims 2-3, 6-9, 23-24, 26-30 are also patentably distinguished over Bettel and Brown for at least the reasons set forth above with respect to Claims 1 and 22, as well as for other novel and nonobvious features recited therein.

#### **Rejection of Claim 10 Under 35 U.S.C. § 103(a)**

Claim 10 was rejected by the Examiner as obvious over Bettel in view of U.S. Patent No. 4,305,772 to Valyi. Applicants have amended Claim 10 to recite “the manufacturing system is adapted to blow mold the preform into the flexible pouch having an average sidewall thickness between about 0.003 to about 0.010 inches (about 0.0076 to about 0.025 cm).” The combination of Bettel and Valyi fails to teach or suggest an apparatus having a manufacturing system that blow molds a preform into a flexible pouch having an average sidewall thickness between about 0.003 to about 0.010 inches (about 0.0076 to about 0.025 cm). As such, Claim 10 represents a nonobvious combination of elements over the cited references.

Accordingly, Applicants respectfully submit that Claim 10 is allowable over the combination of Bettel and Valyi. Claims 11-15 and 17-21 depend from Claim 10 and further defines the invention defined in Claim 10. Thus, these claims are also patentably distinguished over Bettel and Valyi for at least the reasons set forth above with respect to Claim 10, as well as for other novel and nonobvious features recited therein.

Appl. No. : 10/747,812  
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**Conclusion**

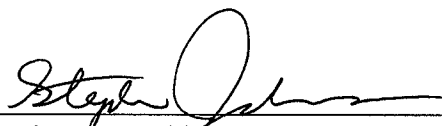
For the foregoing reasons, it is respectfully submitted that the rejections set forth in previous *Office and Advisory Actions* are inapplicable to the present claims. Applicants do not concede or acquiesce to any of the rejections in the previous *Office and Advisory Actions*. Any remarks herein in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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